

**REMARKS**

Claims 1-29 are pending in the application. Claims 2 and 6-29 are allowed. Claims 1 and 3-5 are rejected. No claims are amended, as Applicants strongly believe that all of the claims are patentable.

***Claim Rejections - 35 U.S.C. § 103***

**Claims 1 and 3-5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ouderkirk et al (5,828,488) in view of Sanelle et al (6,181,394).** This rejection is traversed for at least the following reasons.

**The Invention**

As previously asserted, the present invention relates to an optical path changing polarizer (1) with a polarizer (P), comprising layers (12-14) and having on one side thereof an adhesive layer (15) and on the other side a repetitive prismatic structure (11A). There are two distinctive features in the claims.

First, the adhesive layer (15) has a refractive index different by 0.1 or less from a refractive index of the adjacent polarizer surface layer. Second, the prismatic structure (11A) has optical path changing slopes that are inclined with an inclination angle in a range from 35° to 48° with respect to a plane of the polarizer.

**The Rejection**

The Examiner repeats his rejection of claims 1 and 3-5, and rebuts the arguments put forth by the Applicants in the previous Amendment. Applicants respectfully submit that the Examiner's rebuttal does not remedy the lack of teachings or suggestions for combining the references in a way that would render the claimed invention obvious.

**Ouderkirk et al**

The Examiner relies upon Ouderkirk et al for a teaching in Fig. 13 of an optical path changing polarizer that includes a polarizer layer 116 and a repetitive prismatic structure 113.

As to the first distinctive feature, the Examiner admits that Ouderkirk does not teach an adhesive layer disposed on the other side of the polarizer, particularly an adhesive layer having the claimed refractive index. The Examiner must look to Sanelle et al for such teaching.

As to the second distinctive feature, there is no teaching with regard to Fig. 13 of a prismatic structure that has slopes with an inclination angle in a range of from 35° to 48° with respect to the plane of the polarizer. The Examiner has no explanation for the absence of such teaching in Ouderkirk et al.

In his Response to Arguments, particularly with respect to the clear presence of a gap in Fig. 13 that the Applicants assert is an air gap, the Examiner asserts (1) the illustration in Fig. 13 is a schematic and that the schematic cannot be relied upon for an accurate teaching of an arrangement of components and (2) that there is no indication in the description of Figure 13 that the elements are separated by air space.

Given this assertion, Applicants respectfully submit that (1) any angle measured by the Examiner in Fig. 13, which the Examiner also stresses is the only figure relied upon for the rejection, cannot be relied upon for an accurate teaching, and (2) there is no indication in the description of Fig. 13 that the prismatic structure has the claimed angles. In short, there is an absence in Ouderkirk et al (or any other reference relied upon by the Examiner) of teachings of express limitations in the claims. In the absence of such limitations in Ouderkirk et al or any other cited reference, the claim should be allowable.

**Sanelle et al**

The Examiner relies upon Sanelle et al for a teaching of the use of an adhesive layer in a sandwiched structure 11 for an active matrix liquid crystal display panel. The Examiner points to a front polarizer 31 in Sanelle et al and notes that this structure has on one side thereof an index matched adhesive 37. This reliance fails for two reasons.

First, contrary to the Examiner's assertion, there is no teaching in the reference of an adhesive with a refractive index different by 0.1 or less from a refractive index of a surface layer of one side of the polarizer. The text at col. 6, lines 24-34, which is cited by the Examiner, does not mention any quantified index values. The only teaching is that of an "index of refraction

substantially matching that of the front polarizer 31” and a layer 37 of “the above mentioned index-matched pressure sensitive adhesive.” There is no teaching of what “substantially matching” means or the limits of such feature. More specifically, Sanelle et al does not state that the value is 0.1 or less. The burden is on the Examiner to show what “substantially matching” means. There is no clear teaching that it is the value as claimed. Thus, the Examiner has failed in his burden, and the claim should be allowed.

Also, in the previous Amendment, Applicants noted that the opposite side of the polarizer has an index matched bonding material 33 that itself is attached to a glass substrate 13. The Examiner has not addressed the effect of such index matching on the adhesive 37. Applicants respectfully submit that this also must be considered but has not been addressed by the Examiner.

Finally, the Applicants’ argument with respect to the illustration of the reflective polarizer body in Fig. 13 with a space between the polarizer body 116 and a crystal matrix 147 in the direction of the observer 146 has not been adequately addressed. The use of a similar space is described as a “gap” 171 with respect to the structure of Fig. 10. The Examiner casually asserts that the description of Ouderkirk does not rule out or specifically prohibit the use of adhesives. This assertion is unsupported by the law. The Examiner is improperly shifting the burden of proof onto the Applicants. Applicants have already demonstrated that there is no *prima facie* case for obviousness.

At this point in the prosecution of the present application, the Examiner has the burden of proving obviousness. The Examiner cannot assert that a clear and positive teaching of an air gap in one embodiment must be ignored in another embodiment with a similar schematic illustration. The Examiner cannot assert that the failure of a reference to rule out a possibility makes that possibility a fact. The Examiner cannot avoid the statutory requirement that limitations in a claim must be found in the prior art.

Applicants submit that Ouderkirk teaches the use of pressure lamination rather than adhesives and that the elimination of an air gap would be accomplished by lamination, as taught

Amendment under 37 C.F.R. § 1.116  
Application No. 09/756,792

at col. 32, line 29. Applicants strongly contend that such feature is not obvious, particularly in light of the specific refractive index limit specified in the claims.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

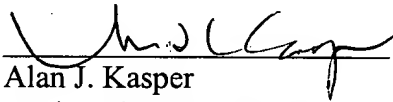
Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

  
Alan J. Kasper  
Registration No. 25,426

Date: May 10, 2004